

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emma Stydahr	Team: Squad #13	CCRB Case #: 202004428	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/05/2020 10:00 PM	Location of Incident: Nostrand Avenue between President Street and Crown Street	Precinct: 71	18 Mo. SOL 12/5/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/16/2020 1:06 PM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Tue, 06/16/2020 1:06 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. LT Daniel Guida	00000	941862	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Nicoletti	10711	961004	071 DET

Officer(s)	Allegation	Investigator Recommendation
A.LT Daniel Guida	Force: Lieutenant Daniel Guida used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On June 16, 2020, § 87(2)(b) emailed this complaint to the CCRB on behalf of an unknown individual who was subsequently identified via investigation as § 87(2)(b).

On June 5, 2020, at approximately 11:00pm, § 87(2)(b) was marching in a police brutality protest headed southbound on Nostrand Avenue between President Street and Crown Street in Brooklyn. The protest participants had been marching on the sidewalk, but when they reached Nostrand Avenue, some protesters began marching in the street. § 87(2)(b) was operating his wheelchair in the street. Several officers ordered the protesters who were in the street to move onto the sidewalk. Lieutenant Daniel Guida of the 71st Precinct approached § 87(2)(b) placed his hands on the back handles of § 87(2)(b)'s wheelchair, and wheeled him to the side of the street as § 87(2)(b) tried to prevent the wheels of his wheelchair from moving with his hands (**Allegation A: Force; § 87(2)(g)**). No arrest or summons resulted from this incident.

§ 87(4-b), § 87(2)(g)

The BWC footage request for this incident was returned negative (see Allegation B). The investigation obtained cell phone video of this incident from § 87(2)(b) and social media. The cell phone videos can be found in IAs #20, 30, and 156 (**Board Review 01; Board Review 02; Board Review 03**) and the summaries can be found in IA #23 (**Board Review 04**).

Findings and Recommendations

Allegation (A) Force: Lieutenant Daniel Guida used physical force against § 87(2)(b)
§ 87(2)(b) testified that several officers who were on foot ordered the protesters to get out of the street and onto the sidewalk. § 87(2)(b) engaged in a verbal back and forth with these officers. § 87(2)(b) shouted something to the effect of "I'm an essential worker, I have a right to be here" several times. This back and forth lasted about a block before Lieutenant Guida, identified via investigation, pushed § 87(2)(b)'s wheelchair by the back handles, wheeling him to the side of the street. § 87(2)(b) continued shouting and he used his hands to try to prevent the wheels from rolling. Lieutenant Guida made contact with the man's wheelchair; he did not touch § 87(2)(b)'s body (**Board Review 05; Board Review 06**).

§ 87(2)(b) was unavailable to the investigation (see IAs for contact attempts).

§ 87(2)(b) a food delivery driver who tried to ride his bicycle through the protest on his way home from work, was interviewed, but said he did not witness this incident (**Board Review 07**). § 87(2)(b) § 87(2)(b) partially recorded the interaction between § 87(2)(b) and Lieutenant Guida from a distant angle, only began watching the interaction after the alleged push had already taken place (**Board Review 08**). § 87(2)(b) was present participating in the march, but he did not recall witnessing this incident (**Board Review 09**).

A cell phone video § 87(2)(b) begins with a group of protesters marching in the street, followed by several NYPD officials on foot and in police vehicles with activated turret lights. At the 00:07 minute-mark of the media player timestamp (visible at the bottom of the screen), an officer uses a voice amplification device to order civilians to get onto the sidewalk. At 00:13, § 87(2)(b) is visible operating his wheelchair southbound in the bus lane of the street. At 00:27, § 87(2)(b) yells, "I am an essential worker" and "I have every right to be out here and I have every right to be in the street." He moves his wheelchair into the center of the street, continuing southbound directly in front of a police vehicle which is moving at a slow speed. At 00:37, an officer using a

voice amplification device again says, “Move onto the sidewalk.” At 00:39, Lieutenant Guida approaches § 87(2)(b). The physical interaction is partially obscured by a parked vehicle. At 0:44, Lieutenant Guida places his hands on the back handles of § 87(2)(b)’s wheelchair and pushed § 87(2)(b) to the curb. Protesters begin yelling, “Get your hands off of him!” Near the curb, Lieutenant Guida, § 87(2)(b) and Police Officer Joseph Nicoletti of the 71st Precinct engage in a brief inaudible conversation before continuing southbound (**Board Review 03**).

Lieutenant Guida testified that the extent of his interactions with § 87(2)(b) were captured in the above cell phone video and his statement was generally consistent with the video. § 87(2)(b) was blocking traffic. Lieutenant Guida twice ordered him to move out of the street so the cars could pass, but § 87(2)(b) refused, stating that he worked for § 87(2)(b), so he did not need to get out of the street. At that point, Lieutenant Guida physically moved § 87(2)(b) from the middle of the street by placing his hands on the back handles of § 87(2)(b)’s wheelchair and wheeling him to the curb. To Lieutenant Guida’s recollection, § 87(2)(b)’s only reaction to him pushing his wheelchair was verbal; § 87(2)(b) yelled at him, though Lieutenant Guida could not remember what he said. Lieutenant Guida pushed § 87(2)(b)’s wheelchair in order to move him out of the path of traffic so the drivers could resume moving, and because it was unsafe for § 87(2)(b) and for everyone at that location for him to operate his wheelchair in the path of vehicular traffic (**Board Review 10**).

PO Nicoletti acknowledged being present during the interaction between § 87(2)(b) and Lieutenant Guida, but he could not recall any details about the encounter (**Board Review 11**). Police Officer Jason Schreckenstein of the 71st Precinct was on duty at the protest, but he said he did not witness the encounter between Lieutenant Guida and § 87(2)(b) (**Board Review 12**).

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 13**).

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- This is the first complaint § 87(2)(b) has been party to (**Board Review 16**).
- Lieutenant Guida has been a member of the NYPD for 14 years and has been a subject in 17 additional complaints, comprised of 62 allegations, three of which were substantiated.
 - In CCRB case # 201707882, a frisk allegation, a search of person allegation, and a vehicle search allegation were substantiated. The Board recommended that Lieutenant Guida be served with charges. The NYPD imposed the forfeit of five vacation days for both the search of person allegation and the search of a vehicle allegation. The frisk allegation was dismissed.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of September 22, 2020, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the NYC Comptroller's Office regarding this incident (**Board Review 17; Board Review 18**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in NYC (**Board Review 19**).

- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in NYC (**Board Review 20**).

Squad No.: 13

Investigator: Inv. Emma Stydahr Inv. Emma Stydahr 11/09/2020
Signature Print Title & Name Date

Squad Leader: IM Laura Kastner IM Laura Kastner 11/13/2020
Signature Print Title & Name Date